

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

AFSCME, LOCAL 410,)	
)	
Petitioner,)	
)	
v.)	Public Case No. AC 94-001
)	
CITY OF ST. LOUIS, LAMBERT AIRPORT,)	
)	
Respondent.)	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the filing of an amendment of certification petition by AFSCME, Local 410, hereinafter the Union. The Union is the certified bargaining representative for employees in certain job classifications at Lambert-St. Louis International Airport. In this case, the Union seeks a determination from the Board whether the classification of Airfield Operation Specialist should be included in their existing certified bargaining unit with the City of St. Louis. A hearing in the matter was held on October 25, 1993 in St. Louis, Missouri, at which representatives of the Union and the City were present. The case was heard by State Board of Mediation Chairman Francis Brady, employee member Donald Kelly, and employer member Pamela S. Wright. At the hearing, the parties were given full opportunity to present evidence. Afterwards, the parties filed briefs. After a careful review of the evidence and arguments of the parties, the Board sets forth the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Airfield Operation Specialists, hereinafter AOS, work in the Communications Center at Lambert-St. Louis International Airport. The Airport Communication Center

operates 24 hours a day, seven days a week. The nine AOS's work rotating shifts and weekends with two AOS's on duty at a time. They all work in one area of the Communication Center and do not have individual offices. The Communications Center is separate from the Air Traffic Control Tower which is operated by the Federal Aviation Administration (FAA).

The AOS job description states that their job "involves monitoring airfield and terminal activities to ensure compliance with FAA regulations and internal operating procedures." They monitor conditions at the airport (both inside the terminal and on the field itself) by performing the following tasks. They make routine and special visual inspections on aircraft movement areas. They listen to an internal airport communications network to keep themselves abreast of ongoing events and activities at the airport. They receive and compile weather information from various sources in order to provide weather updates to contractors, the airport maintenance department and other personnel. They keep the control tower and other personnel apprised of airfield conditions. They open and close runways, taxiways and airline ramp areas for scheduled maintenance, construction, emergencies and snow and ice removal operations. They monitor snow and ice removal operations on the airfield, ramp areas and roadways that are performed by private contractors and airport employees and ensure that the employees performing these tasks adhere to safety regulations. They coordinate ongoing airport maintenance and construction activities in order to minimize their impact on airport operations. Additionally, they file reports dealing with the foregoing activities, to wit: daily field condition reports, special inspection reports, aircraft accident/incident reports, fuel spill reports and weather updates.

The AOS's perform their job in accordance with established rules, policies and procedures. Some of the rules were formulated by those in authority over the AOS's,

specifically the Airfield Administrator, the head of the Building Department, the Airport Deputy Director and the Communications Center Supervisor. Other rules were formulated by the FAA. None of the rules were written by the AOS's. These rules, policies and procedures under which AOS's operate are contained in a volume of memoranda which is four inches thick. The book these documents are compiled in was assembled by an AOS, Jerry Fife. This operations manual contains the procedure to be followed for aircraft or airport emergencies, accidental injuries, fuel and radioactive spills, opening and closing runways or ramps, removing disabled aircraft from runways and taxiways, and snow and ice removal operations.

If a routine problem arises, an AOS is expected to deal with it themselves by reporting it to the proper airport department, airline carrier or contractor. Each AOS knows the proper department to call because existing policies determine that decision. The AOS advises that department to take action to correct whatever problem they see. For example, if an AOS receives a call that a light is out in the garage, he or she notifies the electrical shop. If an AOS learns that ongoing airport construction is not in compliance with certain regulations, he or she notifies the airport engineer. If there is a fuel spill, the AOS monitors the clean-up by whoever caused the spill. If the airport's snow removal contractor creates snow piles that are higher than allowed by airport rules, the AOS points it out to the contractor. After the AOS contacts an airline or airport employee to deal with or correct a problem, the AOS has no authority over the person contacted because that individual is supervised by someone else. For example, if an airline employee fails to remedy a problem as the AOS directs, the AOS has no authority to discipline that employee. In that instance responsibility for disciplining the employee would rest with the airline that employs the person.

If a non-routine or emergency situation arises, an AOS can take immediate steps on their own to address the situation until they are relieved by upper management. Thus, the AOS's sometime exercise their discretion and make snap decisions. Usually, though, when a non-routine or emergency situation arises, one AOS deals with it by implementing the established emergency procedures, while the other AOS contacts Airfield Administrator Bill Korte or the manager on duty to apprise them of the situation and obtain approval from them for their actions. During regular business hours, the AOS's report all non-routine matters to Korte. On evenings and weekends, the AOS's report all non-routine matters to a "manager on duty". Three people rotate as manager on duty: Korte, Slay and Thebeau. In those situations, either Korte or the manager on duty tells the AOS what action to take or approves their proposed action. The AOS's are not empowered to call out snow crews, authorize the placement of a boom to clean up a fuel spill, or hire or fire contractors. Responsibility for all these actions rest with Korte. A number of memoranda in the previously referenced operations manual contain directives instructing the AOS's to contact their supervisors for anything which is non-routine. Other memoranda in the same volume are reprimands of employees for failing to immediately contact their supervisor in those situations.

The AOS's report to Communications Center Supervisor Ken Gentsch who, in turn, reports to Korte. No employees report to the AOS's. The AOS's do not hire, fire, evaluate, discipline, schedule, promote or transfer employees, nor do they recommend any of these actions. Some AOS's have authorized overtime for airport employees to complete a task that demands immediate attention. City employees are evaluated on a service rating form that contains a section entitled "For Supervisory Employees Only". That section is not completed for the AOS's.

The City has two pay schedules known as "G" and "M". The "G" schedule is the general pay schedule and the "M" schedule is the managers pay schedule. The AOS's are currently on the "G" pay schedule. They are paid on a hourly basis and receive hourly pay for the overtime they work. Those persons on the "M" schedule are paid a yearly salary and generally do not receive overtime pay. AOS's keep track of how many hours they work beyond eight hours per day. Management employees, such as Korte, do not keep track of their daily hours. The AOS's do not attend management meetings.

The record indicates that in 1991, the AOS's sought to upgrade their position into management. They were not successful in this effort. However, as a result of this effort, the AOS's were reclassified from pay grade G15 to G16.

CONCLUSIONS OF LAW

The Union seeks to include the AOS classification in their existing bargaining unit. The City opposes same. The City expressly contends the AOS's are supervisory. In addition, it implicitly contends they are also managerial. Accordingly, both grounds for exclusion will be addressed below.

Attention is focused first on the AOS's alleged supervisory status. Although supervisors are not specifically excluded from the coverage of the Missouri Public Sector Labor Law, case law from this Board and the courts have carved out such an exclusion. See St. Louis Fire Fighters Association, Local 73 v. City of St. Louis, Missouri, Case No. 76-013 (SBM 1976) and Golden Valley Memorial Hospital v. Missouri State Board of Mediation, 559 S.W.2d (Mo.App. 1977). This exclusion means that supervisors cannot be included in the same bargaining unit as the employees they supervise.

In making this call, this Board has historically considered the following factors:

- (1) The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employees;

- (2) The authority to direct and assign the work force, including a consideration of the amount of independent judgment and discretion exercised in such matters;
- (3) The number of employees supervised, and the number of actual persons exercising greater, similar or lesser authority over the same employees;
- (4) The level of pay including an evaluation of whether the supervisor is paid for a skill or for supervision of employees;
- (5) Whether the supervisor is primarily supervising an activity or primarily supervising employees; and
- (6) Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.¹

We will apply them here as well. Not all of these criteria need to be present for a position to be found supervisory. Rather, in each case the inquiry is whether these criteria are present in sufficient combination and degree to warrant the conclusion that the position is supervisory.

Applying these criteria to the AOS, we conclude that they do not meet this supervisory test. Our analysis follows.

It is noted at the outset that no employees report to the AOS's. As a result, the AOS's do not supervise anyone. Having said that, the AOS's do direct employees of other departments to correct problems that arise. For example, if an AOS notices that an airport employee or contractor is piling snow higher than allowed by airport rules, the AOS can direct that person to change it. However, after giving that directive, the AOS is not empowered to enforce it via discipline; that responsibility rests with others. Consequently, the AOS's have not disciplined or fired anyone. In addition, they have not hired, transferred, evaluated or promoted anyone, nor have they effectively recommended same. Given the foregoing, it is apparent that the AOS's spend no time whatsoever supervising other employees.

See, for example, City of Sikeston, Case No. R 87-012 (SBM 1987).

The crux of the City's contention is that the AOS's supervise an activity, namely the operation of the airfield and airport. We agree. In point of fact, that is their job. However, supervision of work activities, as is the situation here, does not qualify; it must be supervision of employees. Since the AOS's do not supervise employees they do not qualify for the supervisory exclusion.

We will now assess the AOS's claimed managerial status. Managerial employees, like supervisory employees, are not specifically excluded from the coverage of the Missouri Public Sector Labor Law. Nevertheless, case law from this Board and the courts have carved out such an exclusion. See Department of Social Services, Case No. 83-012 (SBM 1984); and Missouri National Education Association v. Missouri State Board of Education, 695 S.W.2d 894, 898 (Mo. 1985).

In deciding whether the position in question is managerial, this Board has historically considered the degree to which the individual participates in the formulation, determination and effectuation of management policy. We will do so here as well.

The AOS's perform their job of monitoring activities at the airfield and airport in accordance with an extensive set of established rules, regulations and procedures. These rules, regulations and procedures detail how the AOS's are to respond to a myriad of routine and non-routine matters. When such matters arise, the AOS's implement these established procedures. The AOS's did not formulate any of the existing policies on their own, did not attend any management meetings where these policies were formulated and did not write them. Instead, policies are formulated and written by individuals with authority over the AOS's, namely Gentsch and/or Korte, the head of the Building Department and the Airport Deputy Director.

In addition to being controlled by these established rules, regulations and procedures, the AOS's are to contact the Airfield Administrator (Korte) or the manager

on duty for anything which is non-routine. Korte, or the manager on duty, then instructs the AOS's what action to take or approves their proposed action.

The foregoing persuades us that the AOS's participation in formulating, determining and effectuating the Employer's management policy is minimal, if not non-existent. Those decisions are made by others. Accordingly, we therefore find the AOS's are not managerial employees.

ORDER GRANTING AMENDMENT OF CERTIFICATION

Based on the above, it is held that the AOS's are neither supervisory nor managerial employees. They are therefore eligible for inclusion in the existing bargaining unit. Accordingly, the certification granted to the Union in Case R-86-023 is hereby amended to reflect the inclusion of the classification of AOS into the Union's bargaining unit.

Dated this 10th day of January, 1994.

STATE BOARD OF MEDIATION

(SEAL)

/s/ Francis R. Brady
Francis R. Brady, Chairman

/s/ Pamela S. Wright
Pamela S. Wright, Employer Member

/s/ Donald N. Kelly
Donald N. Kelly, Employee Member